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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case Number

2013-69

12 **JAGDEEP KAUR NAHAL**
a.k.a Jagdeep Nahal
13 829 Padova Drive
14 Gilroy, California 95020

ACCUSATION

15 **Registered Nurse License Number 635202**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Complainant Louise R. Bailey, M.Ed., R.N., brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing (hereafter
22 Board), Department of Consumer Affairs.

23 2. On or about March 29, 2004, the Board issued Registered Nurse License Number
24 635202 to respondent Jagdeep Kaur Nahal, a.k.a. Jagdeep Nahal. This registered nurse license
25 was in full force and effect at all times relevant to the charges brought in this Accusation and will
26 expire on April 30, 2014, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 118, subdivision (b), provides:

“The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

5. Section 2750 provides:

“Every certificate holder or licensee, including licensees holding temporary licenses, or licensees holding licenses placed in an inactive status, may be disciplined as provided in this article [Article 3 of the Nursing Practice Act (Bus. & Prof. Code, § 2700 et seq.)]. As used in this article, ‘license’ includes certificate, registration, or any other authorization to engage in practice regulated by this chapter. The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code [the Administrative Procedure Act], and the board shall have all the powers granted therein.”

6. Section 2764 provides:

“The lapsing or suspension of a license by operation of law or by order or decision of the board or a court of law, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to proceed with any investigation of or action or disciplinary proceeding against such license, or to render a decision suspending or revoking such license.”

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STATUTORY PROVISIONS

7. Section 2761 provides, in pertinent part:

“The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

“(a) Unprofessional conduct, which includes, but is not limited to, the following:

“(1) Incompetence, or gross negligence in carrying out usual certified or licensed nursing functions.”

8. California Code of Regulations, title 16, section 1443, provides:

“As used in Section 2761 of the code, ‘incompetence’ means the lack of possession of or the failure to exercise that degree of learning, skill, care and experience ordinarily possessed and exercised by a competent registered nurse as described in Section 1443.5.”

9. California Code of Regulations, title 16, section 1443.5, provides:

“A registered nurse shall be considered to be competent when he/she consistently demonstrates the ability to transfer scientific knowledge from social, biological and physical sciences in applying the nursing process, as follows:

“(1) Formulates a nursing diagnosis through observation of the client's physical condition and behavior, and through interpretation of information obtained from the client and others, including the health team.

“(2) Formulates a care plan, in collaboration with the client, which ensures that direct and indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and for disease prevention and restorative measures.

“(3) Performs skills essential to the kind of nursing action to be taken, explains the health treatment to the client and family and teaches the client and family how to care for the client's health needs.

“(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.

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“(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.

“(6) Acts as the client’s advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided.”

COST RECOVERY

10. Section 125.3, subdivision (a), provides:

“Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board upon request of the entity bringing the proceedings, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.”

FACTUAL BACKGROUND

11. Respondent, a registered nurse at Santa Clara Valley Medical Center (hereafter SCVMC), was assigned to monitor N.M.¹, a student at the San Jose State University (hereafter SJSU) "R.N. to B.S.N." program. N.M. chose a preceptorship in a medical-surgical unit as part of the coursework for her last semester at SJSU. N.M. herself has been a registered nurse since 1994 and had been employed as a registered nurse for approximately six years before entering the SJSU program.

12. On or about September 11-12, 2010, N.M. spent almost all of two eight-hour shifts with respondent. From the outset, N.M. had concerns about respondent's nursing practice. She noticed that respondent did not carry a stethoscope and did not use a stethoscope on patients. Consequently, respondent was not able to monitor patients' breath, heart, or bowels sounds, or otherwise properly assess or care for patients.

¹ The student's name will be released pursuant to a discovery request.

1 13. In one instance, respondent inserted a nasal gastric tube without a stethoscope and
2 without first measuring for placement. After N.M. told respondent that it was not placed
3 correctly, respondent borrowed N.M.'s stethoscope to check the tube's placement. N.M. told
4 respondent that they need to get a new gastric tube kit. N.M. measured for placement, and
5 respondent then properly inserted the tube.

6 14. In another instance, N.M. noticed that respondent did not properly attend to a
7 patient's wound treatment or notify a physician about the odor from the wound. She also
8 witnessed respondent report to the oncoming shift that she had completed another patient's
9 treatment when N.M. did not see her do so.

10 15. After her first day with respondent, N.M. reported her concerns about respondent to
11 her professor, L.R.² After her second day, N.M. again reported her concerns and requested
12 moving her preceptorship to another facility. On or about September 16, 2010, L.R. reported
13 N.M.'s observations to SCVMC.

14 16. On or about September 23, 2010, K.M.³, R.N., Interim Director of Professional
15 Nursing Practice and Nurse Manager at SCVMC, reviewed respondent's charting notes for two
16 patients assigned to her that day. Respondent charted that she assessed their breath and bowel
17 sounds, and apical (heart) pulse; all of these assessments must be performed with a stethoscope.
18 She charted that she assessed the pedal pulse of one of the patients, which is feeling a pulse in the
19 patient's feet. She also charted that she assisted both patients with their hygiene.

20 17. That same day, K.M. interviewed one of these patients and the son of the other patient
21 who said that he was with his father all day. The patient stated that respondent did not use a
22 stethoscope on his chest or abdomen, did not uncover his feet and feel for a pulse, and did not
23 assist him with hygiene or offer him soap and towels for his own use. The other patient's son
24 stated that respondent did not use a stethoscope on his father's chest or abdomen or assist his
25 father with hygiene or offer him soap and towels for his own use.

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27 ² The professor's name will be released pursuant to a discovery request.

28 ³ The director's name will be released pursuant to a discovery request.

18. On or about September 24, 2010, K.M. reviewed respondent's charting notes for three patients assigned to her that day. Respondent charted that she assessed their breath and bowel sounds, and apical (heart) pulse. She charted that she assessed their pedal pulses. There were physician orders for neurological checks for two of the patients, which require the caregiver to squeeze the patient's hands and the patient to push his feet against the caregiver's hands. She also charted that she assisted two patients with their hygiene, and offered one patient soap and towels for the patient's own use.

19. That same day, K.M. interviewed all three patients. One of the patients was sure that respondent did not use a stethoscope on his chest during her assessment; all of the patients stated that respondent did not use a stethoscope on their abdomen. Two of the patients stated that respondent did not uncover their feet and feel for a pulse, and both patients for whom the neurological tests were ordered stated that respondent did not squeeze their hands or push on their feet. Finally, although one of the patients was very dirty, all of the patients stated that respondent did not assist them with hygiene or offer them soap and towels for their own use.

20. On or about September 24, 2010, respondent was placed on administrative leave pending investigation of the above acts and omissions. On or about November 17, 2010, she was suspended from SCVMC for two weeks.

FIRST CAUSE FOR DISCIPLINE
Unprofessional Conduct
(Bus. & Prof. Code, § 2761, subd. (a))

21. The allegations of paragraphs 11-20 are realleged and incorporated by reference as if fully set forth.

22. Respondent has subjected her license to disciplinary action for unprofessional conduct under section 2761, subdivision (a). As set forth in paragraphs 11-20 above, respondent demonstrated unprofessional conduct including, but not limited to, falsely charting that she assessed patients' breath and bowel sounds, apical pulse, pedal pulse, lungs, hearts, and abdomens. She also falsely charted performing neurological checks and assisting patients with their hygiene.

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SECOND CAUSE FOR DISCIPLINE
Unprofessional Conduct: Incompetence
(Bus. & Prof. Code, § 2761, subds. (a) & (a)(1))

23. The allegations of paragraphs 11-20 are realleged and incorporated by reference as if fully set forth.

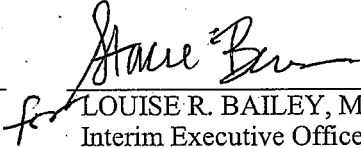
24. Respondent has subjected her license to disciplinary action for unprofessional conduct under section 2761, subdivision (a), as defined by subdivision (a)(1). As set forth in paragraphs 11-20 above, respondent was incompetent in carrying out usual certified or licensed nursing functions, including but not limited to, failing to properly assess and care for patients, and falsely charting that she assessed patients' breath and bowel sounds, apical pulse, pedal pulse, lungs, hearts, and abdomens. She also falsely charted performing neurological checks and assisting patients with their hygiene.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 635202 issued to Jagdeep Kaur Nahal, a.k.a. Jagdeep Nahal;
2. Ordering Jagdeep Kaur Nahal, a.k.a. Jagdeep Nahal, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: July 25, 2012


LOUISE R. BAILEY, M.Ed., R.N.
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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